



# Preparing for New York State Paid Family Leave

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# Agenda

- **Paid Family Leave basics**
- **What you need to know -employer obligations once PFL is in effect**
- **PFL/DBL/FMLA**
- **What you should do now to prepare**
- **Q&A**



# Paid Family Leave Basics

- **What is Paid Family Leave (PFL)?**
- **Who is eligible?**
- **Who is not eligible?**
- **What are the benefits?**
- **What can PFL be used for?**
- **PFL Premium**
- **Claim Filing**



# What is PFL?

- Commencing January 1<sup>st</sup>, 2018
- Paid time off
  - Benefits progressively getting richer over the next 4 years.
- Job security
  - Applies to employers with as few as 1 staff
- Maintains health insurance



# Who is Eligible for PFL

- All active full and part-time private sector New York employees must be covered
  - Note –a public sector employer, not subject to the law, may opt in for PFL-only coverage
  - PFL can be stand alone for employers that are self insured.



# Full Time Vs Part Time

- The minimum amount of time employees work at the same employer to qualify for PFL benefits:
  - Full Time Employees: 26 weeks
  - Part Time Employees: 175 Days(Time worked at another employer does not count for PFL. The clock starts over)



# Who is not eligible?

- Independent Contractors/Freelance workers
- Farm Workers
- Volunteers
- Any other unpaid workers



# How are PFL Benefits Calculated?

- Benefits are calculated according to the following chart for full-time employees (as well as part-time\* employees taking paid leave in weekly increments.) Full-time employment assumes 20+ weekly work hours:

Benefit year	Maximum length of Paid Leave	Maximum Benefit Amount		
		Payable % of Employee's Average Weekly wage	Maximum % of NY Average Weekly Wage	Benefit Max Based on current AWW of \$1,305.92
1/1/2018	8 Weeks	50%	50%	\$652.96
1/1/2019	10 Weeks	55%	55%	\$718.26
1/1/2020	10 Weeks	60%	60%	\$783.55
1/1/2021	12 Weeks	67%	67%	\$874.97

*\*Part-time employees taking leave in daily increments have "pro-rated" benefits.*

*\*\*While this is the anticipated phase-in schedule, New York State may delay implementation at its discretion. \*\*\*NY Department of Labor releases the updated statewide AWW by March 31 for the previous calendar year.*





# What can PFL be used for?

- Providing Care for a family member with a serious health condition
  - Child, Parent, Spouse, Grandparent, Grandchild, Domestic Partner, Step Parent.
- Bonding after a birth, adoption, or foster care
- Assisting with a qualifying military leave
  - Spouse, Domestic Partner, Child, or Parent of the employee



# Providing Care

- **What qualifies as a serious health condition under PFL?**
  - “Serious health condition” means that the person receiving care is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated due to very specific definitions.
  - In-patient care in hospital, hospice, or residential health care facility
  - Continuing treatment supervision and treatment by
- **What does NOT qualify as a serious health condition under PFL?**
  - Routine examinations or cosmetic procedures
  - A regimen or treatment that can be, and is, initiated without a visit to a health care provider, such as taking of over-the-counter medications (*e.g.*, aspirin, antihistamines, or salves), bed-rest, drinking fluids, exercise, etc.
  - The common cold, flu, ear aches, upset stomach, minor ulcers, headaches other than medically diagnosed migraine, routine dental or orthodontia problems, periodontal disease, *etc.* (unless complications arise)



# Bonding

- Mothers and Fathers
- Babies born starting **2017**
- Adoptions or foster care (can start to be taken before adoption)
- DBL and PFL cannot be taken together, and cannot exceed 26 weeks total within the consecutive 52-week period beginning on the date of the birth/adoption



# Qualifying Military Leave

- Employees can take paid family leave to attend to family matters if a family member is on active duty or has been notified of an impending call to active duty in the armed forces of the United States.
- **Who counts as a military-leave qualified family member for PFL purposes?**
  - Spouse
  - Domestic partner
  - Child
  - Parent
- Note: PFL regulations USE THE FMLA DEFINITIONS—so, if FMLA rules and definitions change regarding military leave, the same changes apply to PFL.



# PFL Premium

- Community Rated Single Tier as a percentage of salary
  - **The weekly contribution rate is 0.126% of the employee's weekly wage** (capped at the NY AWW of \$1,305.92\*)
  - **A maximum contribution of \$1.65/week per employee**
- The PFL rate is set by NY State and can be adjusted on an annual basis effective January 1
- Updated rates are set and announced by New York State by September 1 of each year for the following calendar year.

## **Premiums and Withholding**

- All carriers charge the same rate for PFL by law
- Employers must pay the premium for their entire group whether they withhold from employees or not.
- While PFL is considered employee-funded coverage, employers don't *have to* collect weekly employee contributions.
- However, if employers choose to, they may pre-fund their PFL premium to ease their cash flow burden. As such, they may have their business start payroll deductions as **early as July 1, 2017.**



# Claim Filing

- Claim Forms required to file for PFL:
  - PFL 1- Request for Paid Family Leave
  - PFL 2- Bonding Certification
  - PFL 3- Release of Personal Health Information
    - Allows the health care provider to complete PFL 4 and release it to the employee seeking PFL benefits. Provider retains this form (does not send back to carrier)
  - PFL 4- Health Care Provider Certification for Care of Family Member with serious health condition
  - PFL 5- Military Qualifying Event



# Taxability

- Premium paid by Employee
  - Not state taxed but may be subject to Federal Income tax
- Premium paid by Employer
  - Benefit subject to Federal and State Tax



# PFL vs. DBL

Paid Family Leave (PFL)	Statutory Disability (DBL)
50% - 67% capped at NY's AWW	50% to max of \$170/week
No waiting period	7 day wait
Taken to care for someone else, or for bonding	Taken for an employees own disability
Job protection	No job protection
Max duration is 8 – 12 weeks	Max Duration of 26 weeks
Employee may have to pay full premium .126% of employee's AWW (Employer Discretion)	Max employee contribution is \$.60 (Employer Discretion)





# PFL vs FMLA

Paid Family Leave (PFL)	Family Medical Leave Act
1 employee	50 or more within 75 mile radius
Paid time off (50% - 67%)	Unpaid time off
Job Protection	Job Protection
8 – 12 weeks	12 weeks
Taken in full day increments	15 minute increments
20+ hours - employed for 26 weeks Less than 20 hours- 175 days	Must be employed for 12 consecutive months working at least 1,250 hours
Can't be taken for own personal illness or injury	Can be taken for own personal illness or injury
Cannot require that PTO be taken	Can require that PTO be taken



# Penalties

- Non-compliance: the NYS Workers' Comp Board may access penalties for non-compliance, up to one half of 1% of the employers' weekly payroll for period of noncompliance, plus payment of any PFL claims and an additional sum of up to \$500.



# What to do now to prepare for PFL

- Decide who will be paying the premiums
  - If that end up being the employees, decide on whether or not you are going to start taking deductions early (July)
- Check with your DBL Insurance carrier/broker to see if they are offering PFL in 2018
- Plan for staffing gaps
  - Spread workload (cross-train), Temp agencies, etc.
- Review/revise personnel policies and post compliance notices.
- Employment Practices Liability Insurance



# Resources

- New York State PFL Website

<https://www.ny.gov/programs/new-york-state-paid-family-leave>

- Workers Compensation Board

<http://www.wcb.ny.gov/PFL/pfl-regs.jsp>



# Questions?

Thanks for attending!

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